

II. REMARKS

This Response is timely filed with a Request for Continued Examination (RCE), a request for a second and third month extension of time (extending the period for response to the December 13, 2007 Advisory Action and the July 17, 2007 final Office Action three (3) months, from October 17, 2007 to January 17, 2008, in view of the one-month extension of time filed November 8, 2007), and the required fees. Applicants respectfully request entry and reconsideration of the remarks and Declaration filed November 8, 2007.

Claims 1, 7-22, 24, 32, 34, 35, 39-45, and 50 are pending. Claims 33-35 are withdrawn. Claim 50 is added. The amendments are supported by the originally filed specification and claims. For example, claim 50 is supported by originally filed claim 1. No new matter is added.

Claims 1, 7-22, 24, and 39-45 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Del Soldato et al. (WO 95/30641) in view of Lai et al. (U.S. Patent No. 6,355,666), Cainelli et al. (J. Chem. Soc. Perkin. Trans. (1987) 2637-2642) and Hwu et al. (Synthesis (1994) 471-474). This rejection is again traversed.

Further to the Declaration filed November 8, 2007 and the remarks in the Response filed December 8, 2007, Applicants respectfully maintain that the presently claimed invention would not have been obvious in view of the cited references, alone or in combination, as they do not teach or suggest each and every element of the presently claimed invention. Applicants maintain that Hwu et al. does not satisfy the previously noted deficiencies of the other cited references.

Hwu et al. discloses the following:

We found that both primary and secondary alkyl *p*-toluenesulfonates can be converted to the corresponding nitrate esters efficiently by the newly developed method. ... Furthermore, some potential competing reactions did not occur: nitration of aromatic ring³ in **2a** and **3a**; elimination of the *p*-toluenesulfonyl group at the β -position in ester **6a**

(Hwu et al., page 472). These statements clearly disclose that the reaction conditions disclosed in the article can be applied to all substrates, such that the results in the Table on page 471 should not be interpreted as referring to single compounds but as referring to the general method described in Hwu et al. Therefore, Applicants submit that the table in Hwu et al. discloses that a decrease in the reaction temperature corresponds to a decrease in percent yield of nitrate esters from the corresponding alkyl toluenesulfonates. See, for example, the summary below of the Table on page 471 of Hwu et al.:

Temperature (°C)	Yield (%)
130-135	82-92
120	73-81
110	67

As Hwu et al. discloses that a decreased percent yield would have been expected with a decreased reaction temperature, those of skill in the art would not have been motivated by Hwu et al. to decrease the reaction temperature. In contrast, the previously submitted Declaration demonstrates the unexpected results that a reaction of a sulfonate

intermediate at decreased reaction temperature increased the percent yield (i.e., decreased the amount of impurities).


As none of the cited references, alone or in combination, teach or suggest all of the elements of the presently claimed invention, Applicants submit that the presently claimed invention would not have been obvious to those of skill in the art, much less the unexpected advantages thereof. Accordingly, for at least the above reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 7-22, 24, and 39-48 under 35 U.S.C. § 103(a) over Del Soldato et al. in view of Lai et al., Cainelli et al. and Hwu et al.

III. CONCLUSION

Applicants respectfully submit that this application is in condition for allowance and such action is earnestly solicited. If the Examiner believes that anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below to schedule a personal or telephone interview to discuss any remaining issues.

In the event that this paper is not being timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account Number 01-2300, referencing Docket Number 026220-00064.

Respectfully submitted,



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Enclosure: Request for Continued Examination (RCE)